

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:

Cindy Andrea Heyward
5020 Cedar Acres Ct.
Richmond, VA 23223
SSN / ITIN: xxx-xx-6864

Case No. 22-30196-KRH
Chapter 13

**NOTICE OF THE UNITED STATES TRUSTEE'S
MOTION FOR RULE 2004 EXAMINATION**

PLEASE TAKE NOTICE THAT the United States Trustee has filed with the Court a **Motion for Rule 2004 Examination** (the "Motion") in the above-captioned case.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to grant the relief sought in the Motion or if you want the Court to consider your views on the Motion, then on or before **March 4, 2022**, you or your attorney must:

(X) File with the Court, at the address below, a written request for a hearing [or a written response pursuant to Local Bankruptcy Rule 2004-1]. You must mail or otherwise file it early enough so the Court will **receive** it on or before the date stated above.

Clerk of Court
United States Bankruptcy Court
701 East Broad Street – Suite 400
Richmond, Virginia 23219

You must also mail a copy to:

Jason B. Shorter, Esq.
Office of the United States Trustee
701 E. Broad Street – Suite 4304
Richmond, VA 23219

Kathryn R. Montgomery, Esq., AUST (VSB No. 42380)
Shannon Pecoraro, Esq. (VSB No. 46864)
Jason B. Shorter, Esq. (VSB No. 80929)
Office of the United States Trustee
701 East Broad St., Suite 4304
Richmond, VA 23219
Phone (804) 771-2310
Fax: (804) 771-2330

(X) Attend a hearing, which may be scheduled at a later date. You will receive a separate notice of hearing.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Motion and may enter an Order granting the relief requested.

Date: February 25, 2022

JOHN P. FITZGERALD, III
Acting United States Trustee
Region Four

/s/ Jason B. Shorter
Jason B. Shorter, Esq.
Office of the United States Trustee
701 East Broad Street - Suite 4304
Richmond, VA 23219
Telephone (804) 771-2310
Facsimile (804) 771-2330

CERTIFICATION OF SERVICE

I hereby certify that on February 25, 2022, a true copy of the foregoing was delivered via electronic mail pursuant to the Administrative Procedures of the CM/ECF System for the United States Bankruptcy Court for the Eastern District of Virginia to all necessary parties. In addition, a copy was mailed to the following:

Cindy Andrea Heyward
5020 Cedar Acres Ct.
Richmond, VA 23223

By /s/ Jason B. Shorter
Jason B. Shorter, Esq.
Trial Attorney

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UNITED STATES TRUSTEE'S MOTION FOR RULE 2004 EXAMINATION

COMES NOW JOHN P. FITZGERALD, III, Acting United States Trustee for Region Four (the "United States Trustee"), by and through the undersigned counsel, seeking entry of an order authorizing examination of Cindy Andrea Heyward pursuant to Federal Rule of Bankruptcy Procedure 2004 (this "Motion"). In support whereof, the United States Trustee shows as follows:

Factual Background

1. Cindy Andrea Heyward (the "Debtor") commenced the instant case, *pro se*, with a voluntary petition (the "Petition") filed on January 27, 2022. ECF No. 1. According to the Petition, the Debtor's case is filed through a power of attorney granted by the Debtor to another individual. *Id.* The individual acting on the Debtor's behalf is not named in the Petition nor was the power of attorney filed of record. *Id.*; *see also* ECF Docket, *generally*.

2. The Debtor did not file any schedules or required statements with the Petition or to date. ECF No. 1; ECF Docket, *generally*. A certificate of credit counseling has not been filed to date. *See* ECF Docket, *generally*. The Debtor has not filed a chapter 13 plan to date. *Id.*

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3. On January 28, 2022, and January 30, 2022, the Court issued deficiencies to the Debtor based on (a) the Debtor's failure to upload a creditor's matrix with the Petition, (b) the Debtor's failure to file a credit counseling certificate, and (c) the Debtor's failure to file required schedules and statements or a chapter 13 plan. *See* ECF Nos. 7-9.

4. The Debtor has been a debtor in the following cases previously filed of record with the Court: (a) No. 02-68613; (b) No. 08-30255; (c) No. 16-30581; (d) No. 17-36117; (e) No. 19-31538; and (f) No. 20-30298. *See* "Notice of Debtors Prior Filings", entered January 28, 2022. The Court's records reflect that the Debtor was represented by Counsel in each of these prior cases.¹

ARGUMENT

Federal Rule of Bankruptcy Procedure 2004 allows for examination of any entity by order of the Court. Fed. R. Bankr. P. 2004(a). The scope of the examination, as set forth in the Rule, may relate to "the acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor's estate . . . [.]". Fed. R. Bankr. P. 2004(b). In chapter 12 and chapter 13 cases, the scope of the examination may be much broader – "any . . . matter relevant to the case . . . [.]". *Id.*

In this case, the United States Trustee submits it is appropriate to examine the Debtor in relation to the power of attorney relied on as authority for filing the Petition. Based on the record in this cause, it is not clear if the Debtor is receiving legal counsel in relation to this filing and whether her rights are being protected. As such, the United States Trustee seeks authority to conduct such examination pursuant to Rule 2004.

¹ The Court may take judicial notice of the Debtor's prior filings pursuant to Fed. R. Evid. 201, as made applicable by FRBP 9017.

Wherefore, the United States Trustee respectfully requests that this Motion be granted; that the Debtor be required to participate in an examination under Federal Rule of Bankruptcy Procedure 2004 at a time and place designated by the United States Trustee (via telephonic and/or video-conferencing format if deemed appropriate); and that the United States Trustee have such other and further relief which the Court deems proper.

Respectfully submitted,

Dated: February 25, 2022

John P. Fitzgerald, III
Acting United States Trustee

By: /s/ Jason B. Shorter
Office of the United States Trustee
701 East Broad Street, Suite 4304
Richmond, VA 23219

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